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DEC 12 2008

In re Patent of Robertson et al.	:	
Patent No. 7,362,859	:	
Issue Date: April 22, 2008	:	Decision on Petition
Application No. 09/970,912	:	
Filing Date: October 4, 2001	:	
Attorney Docket No. SD-6769.1/S96421	:	

This is a decision on the petition under 37 CFR 1.182 filed July 21, 2008, to correct the spelling of the inventor's name by way of the previously proffered certificate of correction. The petition is also being treated as a petition under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.182 is **dismissed as moot**.

Facts

The correct name of the first inventor is Perry Robertson, not Robert Robertson. The inventor's name is listed correctly in six different places in the papers filed October 4, 2001, and the inventor signed the declaration listing his name as Perry Robertson. Only the inventor's typed name on the declaration states his name is Robert Robertson.

The application claimed priority to Provisional Application No. 60/238,678. Office computer records indicate the name of the first inventor designated in the provisional application as Perry Robertson.

A Notice to File Corrected Application Papers mailed November 7, 2001, listed the inventor's name as Robert Robertson.

The response to the Notice included a copy of the Notice with the "Robert" portion of the inventor's name marked-out and an indication the name should be "Perry."

A Notice to File Corrected Application Papers mailed March 25, 2002, listed the inventor's name as Perry Robertson. The Notice did not state, and was not accompanied by any paper stating, that petitioner needed to take any further steps to correct the first inventor's name. Papers

mailed by the Office on 12/16/04, 6/3/05, 3/3/06, 8/14/06, 1/29/07, and 4/27/07 listed the first inventor's name as Perry Robertson. The Notice of Allowance mailed September 28, 2007, also listed the first inventor's name as Perry Robertson.

The name of the first inventor listed on the first patent is Robert Robertson. Petitioner filed a request for a certificate of correction on April 28, 2008. The request sought to change the name on the patent from "Robert J. Robertson" to "Perry J. Robertson." A decision denying the request for the certificate of correction was mailed June 24, 2008. The decision stated a petition under 37 CFR 1.182 was necessary.

The instant petition was filed July 21, 2008.

Discussion

The Office will initially treat the petition as a petition under 37 CFR 1.181 requesting review of the requirement for petitioner to file a petition under 37 CFR 1.182 in order to correct the error.

MPEP 605.04(b) states,

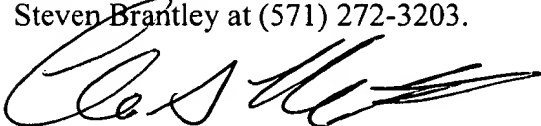
Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

The Decisions and Certificates of Correction Branch determined the error was not simply a typographical or transliteration error. Based on the limited information provided in the June 24, 2008 request, the decision was correct. However, petitioner has supplied additional information in the petition filed July 21, 2008.

Upon review of the entire record, including the petition filed July 21, 2008, the Office has determined a petition under 37 CFR 1.182 will not be required to correct the error. Therefore, the petition under 37 CFR 1.182 is dismissed as moot and the \$400 fee will not be charged to petitioner's deposit account.

The Certificates of Correction Branch will be informed of the instant decision and will issue the requested Certificate of Correction in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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